IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

ROBERT LOVINGS, GARY LOVINGS, BARBARA JEAN LOVINGS HORTON, and CARROL LOVINGS HUTCHISON,	\$ \$	
Plaintiffs,	§ §	
v.	8	1:16-CV-1319-RP
THE SECRETARY OF THE U.S.	8	
DEPARTMENT OF HOUSING AND	8	
URBAN DEVELOPMENT, a department of the	8	
U.S. Government, NATIONWIDE EQUITIES	Š	
CORPORATION, an entity organized under the	S	
laws of the United States of America, and	S	
MORTGAGE ELECTRONIC	S	
REGISTRATION INC., a corporation organized	S	
under the laws of the State of Delaware,	S	
	S	
Defendants.	S	

ORDER

Before the Court is Defendant Mortgage Electronic Registration Systems, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction. (Dkt. 12). Also pending before the Court is Defendant Nationwide Equities Corporation's Motion for Summary Judgment. (Dkt. 11).

Defendants argue in their respective motions that there is no case or controversy between Plaintiffs and Defendants because the Defendants are no longer parties to the contracts at issue in this suit. Accordingly, Defendants assert, this Court lacks jurisdiction over Plaintiffs' claims against them. *See Okpalobi v. Foster*, 244 F.3d 405, 425 (5th Cir. 2001) ("Under Article III of the Constitution, the federal courts have jurisdiction over a claim between a plaintiff and a defendant only if it presents 'a case or controversy."). In their response, Plaintiffs acknowledge that Defendants are no

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¹ Because Defendant Nationwide Equities Corporation's motion for summary judgment challenges the Court's jurisdiction, the Court will construe it as a motion to dismiss. *See Stanley v. Central Intelligence Agency*, 639 F.2d 1146, 1157 (5th Cir. Unit B Mar. 1981) ("Since the granting of summary

longer proper parties to this action and indicate that they support dismissal of Defendants. (Pls.' Mem., Dkt. 16). Since the Defendants' motions are thus unopposed, and the Court agrees that there is no present case or controversy between Plaintiffs and Defendants, the Court will **GRANT** Defendants' motions. (Dkts. 11, 12).

IT IS THEREFORE ORDERED that Defendants Nationwide Equities Corporation and Mortgage Electronic Registration Systems, Inc. are hereby **DISMISSED** from this action.

SIGNED on May 11, 2017.

ROBERT PITMAN

JESSM

UNITED STATES DISTRICT JUDGE

judgment is a disposition on the merits of the case, a motion for summary judgment is not the appropriate procedure for raising the defense of lack of subject matter jurisdiction.").